IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 3977 of 2005

Between:

M/s Kasturi Brothers, Dress Materials & Saree Shop,

16-11-740/5/A, Gaddiannaram, Dilshuknagar, Hyderabad
rep. by its Partner K. Venkateswar s/o Late Chandra Sekhar, 43 years, R/o Hyderabad.

..... PETITIONER

AND

1 The Municipal Corporation of Hyderabad,

rep. by its Commissioner, Tankbund Road, Hyderabad.
2 The Additional Commissioner (Finance),

Advertisement Section,

M.C.H. Tankbund Road, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in treating the name Board/board frames fixed by the Petitioner on the parapet wall of its business place as are covered by section 420 and 421 of H.M.C Act, and consequently demanding the fee vide proceedings No. 17/AEE/Advt/MCH/2004-2005 dated 27-1-2005 for the same is illegal arbitrary, capricious and in violation of the principles of natural justice and to pass such other order or orders as this Hon'ble Court deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.P.SRIHARI

Counsel for the Respondent Nos.1 and 2:Smt.Jyothi Kiran

The Court at the stage of admission made the following :

ORDER:

This writ petition is filed seeking a declaration that the action of the respondents in treating the name Board/board frames fixed by the petitioner on the parapet wall of its business place as covered by Section 420 and 421 of Hyderabad Municipal Corporation Act 1955 (for short, 'the Act'), and consequently to declare that the impugned proceedings dated 27-01-2005 demanding advertisement fees is arbitrary and illegal.

I have heard the learned counsel for the petitioner and the learned Standing Counsel Smt. G.Jyothi Kiran appearing for the respondents.

The learned counsel for the petitioner contends that the Name Board, securely fixed on parapet wall of the business premises of the petitioner, is not a sky sign nor an advertisement and therefore, Sections 420 & 421 of the Act do not attract. Thus, according to the learned Counsel, the petitioner is not liable to pay the advertisement fees as demanded under the impugned notice.

Since admittedly, the said objection raised by the petitioner has not been considered by the respondents before issuing the impugned notice, I deem it appropriate to dispose of the writ petition granting liberty to the petitioner to submit its explanation raising all the objections as are available under law, treating the impugned notice as a show cause notice. If any such explanation is submitted by the petitioner within four weeks from today, the respondents shall consider the same

and pass appropriate orders afresh in accordance with law. Till such orders are passed, the impugned notice shall not be given effect to.

With the above direction, the writ petition is disposed of. No costs.

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02.03.2005

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To

1 The Commissioner, Municipal Corporation of Hyderabad,

Tankbund Road, Hyderabad.

2 The Additional Commissioner (Finance),

Advertisement Section,

M.C.H. Tankbund Road, Hyderabad.

3 Two CD copies